

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

**COMPANION LIFE INSURANCE
COMPANY,**

Plaintiff,

vs.

KRISTA CROSBY,

**Defendant and
Counter Claimant,**

vs.

JILL CHANEY

**Defendant and
Counter Defendant.**

8:09CV342

ORDER

This matter is before the court sua sponte and pursuant to [NECivR 41.2](#), which states in pertinent part: “At any time, a case not being prosecuted with reasonable diligence may be dismissed for lack of prosecution.” Further, [Fed. R. Civ. P. 4\(m\)](#) establishes a 120-day time limit for service of process on the defendant in a civil case, absent a showing of good cause.

In this case, Krista Crosby filed a counter claim against Jill Chaney on October 12, 2009. **See** [Filing No. 6](#). Accordingly, the deadline for service of process expired **on or about February 12, 2010**. Although Ms. Crosby filed notice of execution of the summons ([Filing No. 20](#)), on April 30, 2010, the court determined it “cannot ascertain whether service has been effected on Ms. Chaney” based on the current record. **See** [Filing No. 28](#). Based on this finding, the court denied Ms. Crosby’s motion for default judgment and release of funds, “without prejudice to reassertion on a proper showing that substitute service has been effected.” *Id.* at 3. Ms. Crosby has not responded to the court’s order. Under the circumstances, Ms. Crosby must make a showing of good cause for the failure of timely service or the action must be dismissed as against Ms. Chaney. Upon consideration,

IT IS ORDERED:

Ms. Crosby shall show cause why this case should not be dismissed for failure to prosecute or file the proof of service electronically on or before the close of business **on June 21, 2010**.

Dated this 4th day of June, 2010.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge